

ARIZONA STATE SENATE

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TO: MEMBERS OF THE FINANCE
COMMITTEES

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DATE: March 15, 2016

SUBJECT: Strike everything amendment to H.B. 2676, relating to utilities; manufacturing;
smelting; TPT

Purpose

Clarifies that the gross proceeds of sales of electricity and natural gas to a qualified manufacturing or smelting business is exempt from transaction privilege tax (TPT) under the utilities classification and use tax.

Background

TPT is a gross receipts tax levied on certain persons for the privilege of conducting business in the state. Although TPT is commonly referred to as Arizona's sales tax, it differs from the "true" sales tax as it is imposed upon the seller rather than the buyer of the taxable item. Although the seller may pass the burden of the tax onto the buyer, the seller is the party that remains ultimately liable to the state for the tax.

TPT is currently imposed under 16 separate business classifications: retail, transporting, utilities, telecommunications, publication, job printing, pipeline, private car line, commercial lease, transient lodging, personal property rental, mining, amusement, restaurant, prime contracting, and owner builder sales.

The utilities TPT classification is comprised of the business of: 1) producing and furnishing or furnishing to consumers natural or artificial gas and water; and 2) providing to retail electric customers ancillary services, electric distribution services and other services related to providing electricity. Currently, under the utilities TPT classification, the gross proceeds of sales or gross income derived from sales of electricity or natural gas to a business that is principally engaged in manufacturing or smelting operations and uses at least 51 percent of the electricity or natural gas in the manufacturing or smelting operations.

There may be a fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Clarifies that the gross proceeds of sales or gross income derived from sales of electricity or natural gas to a qualified manufacturing or smelting business is exempt from TPT under the utilities classification and use tax.

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2. Clarifies that a municipality is required to either tax or exempt in whole the gross proceeds of sales or gross income from sales by a utility to a qualified manufacturing or smelting business in that municipality.
3. Requires a utility that claims the electricity or natural gas deduction under the utilities classification to, each month, report the name and address of each qualified manufacturing or smelting business for which the deduction is taken each month on a form prescribed by the Department of Revenue (DOR).
4. Spells out the limitations on the vendor's liability for tax if the vender accepts a TPT exemption certificate in good faith.
5. Defines terms.
6. Becomes effective on the general effective date.

BR/ls